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E.O. 12958: N/A
TAGS: [PARM](#) [PREL](#) [CWC](#)
SUBJECT: CHEMICAL WEAPONS CONVENTION (CWC): WRAP UP FOR
NOVEMBER 13 - 21, 2007

This is CWC-90-07.

WEOG) REVIEW OF THE CSP

¶1. (SBU) The Western European and Others Group (WEOG) held its normal weekly meeting on November 13. Discussion was dominated by the review of the Conference of States Parties the week before. While several delegations began by noting that all, s well that ends well (quoted in different languages), resentment surfaced at Iran being &treated as a super power, 8 and the fact that the majority of CSP delegations were left out of negotiations for much of the week and not kept informed of developments. Several delegations saw the Cuban role in mediation as helpful, and others noted that the NAM is not monolithic and can be split. Others warned that the NAM should not be identified with Iran; NAM countries have very different interests on many issues. France suggested that the EU could be brought in as a &component 8 or counter-weight to the NAM. U.S. del noted that the only way to avoid the Iranians holding decisions hostage is for lots of other delegations, including NAM members, to stand up vocally to the Iranians.

¶2. (SBU) A common theme among the WEOG reactions to the CSP included the need to keep facilitators involved in negotiations, the difficulty in getting volunteers for the facilitators, jobs and the need to recruit and keep motivated people in that role. Most delegations agreed that the vote called for by Morocco to contest the African Group, s candidates set a bad precedent and may affect future meetings; the lack of consultations with the African missions in Brussels was cited as problematic, starting with the African Group, s vote for the CSP chair. More generally on voting, delegations felt that there was not enough time, none to consult capitals, and that the vote may have been improper in the first place. There was general agreement that Legal Advisor Onate, s opinion on the challenge to the African candidates should have stood, with no subsequent vote conducted. (Note: The Director General hosted a lunch for November 21 with Morocco as the guest of honor. The Moroccan ambassador assured the group that their challenge to the Executive Council seat was behind them.)

13. (U) WEOG delegations agreed that Executive Council 51 should beshort and asked Coordinator, Annie Mari (France), to make a formal request to the Secretariat to shorten the session. Mari later reported that the Secretariat (Khodakov) responded that it could not change the official schedule on its own, but that the Council could certainly agree to end early. (Note: A similar response came to the U.S. request to take Articles VII, XI and Universality off the EC-51 agenda) the Secretariat said it could not do so, but the Council could.)

OEWG) REV CON PREPARATION

14. (U) On November 15, Amb. Lyn Parker (UK) chaired a meeting of the Open-Ended Working Group overseeing preparations for the Second Review Conference (RevCon). The topic for his session was the general purpose criterion (GPC).

15. (U) In response to an earlier request from the Netherlands, Amb. Onate (TS Legal Adviser) presented an overview of how the GPC is being implemented in national legislation. Amb. Onate explained that the GPC came originally from the BWC negotiations and entered into early negotiations of the CWC. He stated that, under the GPC, all toxic chemicals are considered chemical weapons (CW) unless their uses, types, quantities, etc. are consistent with the object and purpose of the CWC. (Note: This statement will be placed on the OPCW external server, along with other statements from the meeting.)

16. (U) About national legislation specifically, Onate stated that:

- Some States Parties (SPs) incorporate the CWC by reference.
- Some SPs address the GPC directly in their legislation, with small adjustments for unique national considerations.
- 123 SPs (68%) have included the GPC in their legislation.
- 120 SPs have adopted Article I prohibitions in their legislation.
- The legislative kit the TS uses when working with National Authorities (NAs) includes GPC elements.
- Recently, some SPs have asked the Legal Adviser's Office (LAO) whether it would be consistent with the CWC to include additional elements in their legislation (e.g., inclusion of environmental harm in their definition of toxic chemical, limitations on the use of toxic chemicals for law enforcement purposes domestically). LAO's response has been that, although these additional measures are the prerogative of the NAs, these measures are beyond the scope of the CWC.
- Some SPs have included no thresholds for Schedule 2 and 3 chemicals, seeing this as a measure to strengthen control and security domestically. Switzerland has responded to this practice recently, stating that it causes difficulties for matters of import/export reconciliation (as one example).

17. (U) Amb. Onate also mentioned briefly (without naming the U.S. as the country discussed) the November 8 Herald-Tribune editorial that cast a poor light on new chemical security regulations. (Note: Onate mentioned this editorial in passing to Delrep during the CSP.)

18. (U) Del deployed guidance as part of its intervention to reinforce the presentation of the Legal Advisor, with the examples of U.S. law particularly helpful as illustrations.

19. (U) Italian delegate made a brief intervention about the role of the GPC in their legislation, but mentioned industry's concerns with this concept, particularly in light of declarations. He then stated the importance the Italian government places on the TS role in developing databases. This issue was also raised earlier by Italy during the Industry and Protection Forum, noting that their legislation

is list-based only, and they are greatly concerned that there are holes in their lists. They did not receive any sympathy in this regard, particularly from those SPs who were wise enough to avoid the trap of such lists.

¶10. (U) The UK, the Netherlands, and Canada made brief interventions about their legislative process and outreach efforts to promote understanding of the GPC. This resulted in a discussion on the mention of harm to both humans and animals in the CWC and how that conformed to issues of pest control, etc.

¶11. (U) Iran made repeated interventions about the importance of balancing Articles I and II with Article VI in discussions of the GPC. They also made vague references for the need to look at the use of RCA by SPs beyond its jurisdiction, the use of RCA in warfare, and developments in incapacitating agents.

¶12. (U) When South Africa intervened to question the extent of the problem we are trying to address, Onate stated that the GPC was fairly straight-forward in response to Articles I and II, but that it became more difficult when looked at under Article VI. He stated that it was necessary to put into place rules to allow the verification regime to move forward. But, he also said that some might argue that the heart of the GPC lies in Article VI para 2.

¶13. (U) Amb. Parker noted the Non-Governmental Organizations Forum on November 19 had received more confirmations of attendance. He reported that the Director General's paper with ideas for the Review Conference would form the basis for discussion at the next OEWG meeting on December 4. The DG's paper should be published by November 23. Parker also announced that beginning mid-January, there would be weekly

meetings of the OEWG, with a projected draft report to be completed by the end of February. The RevCon work schedule will be distributed at the next meeting.

INDUSTRY CLUSTER) LATE DECLARATIONS

¶14. (U) Based on the deferral of this decision at the special EC meeting during the week of the CSP, the facilitator (Larry Denyer, Del) met with TS staff, including a LAO representative, about the way forward. LAO agreed that this decision, with minor structural modifications (not substantive), could be introduced to EC-51 as a stand-alone decision. The EC has received a mandate from the CSP to address this issue and, as such, is empowered to take such a decision. This is strengthened by the precedent set by a previous EC decision on the transfer of Schedule 3 chemicals to non-SPs. The necessary changes were made to the decision text, which was been distributed to delegations in advance of a consultation on November 21.

¶15. (U) In the November 21 consultation, the text was only opened because India and a few other delegations had received specific textual instructions from their capitals. These comments focused on operative paragraphs (OP) 3 and 7. Although the discussions were extensive, the resulting changes to these paragraphs were minimal. Iran made their usual generalizations about whether several pre-ambular and operative paragraphs were even needed, but, in the end, they backed down when the discussions on OP 3 and 7 came to a successful conclusion; however, they did say they need to get final instructions from Tehran regarding PP 2 (i.e., CSP-3 report language expressing &serious concern8 over those without initial declarations). The result was a consensus decision text. The minor changes to the text will be incorporated into the text by PMO as EC-M-27/DEC/CRP.4/Rev.2. This document will be posted on the external server by week,s end and presented to EC-51 for approval.

MEETING WITH NON-GOVERNMENTAL ORGANIZATIONS

¶16. (U) On November 19, Amb. Lyn Parker (UK) chaired a meeting with non-governmental organizations (NGOs) as part of the Open-Ended Working Group's (OEWG) preparations for the Second Review Conference (RevCon). Representatives of the following NGOs participated: Arms Control Association (ACA); Bioweapons Prevention Project (BWPP); Center for Arms Control and Non-Proliferation; Green Peace) War Victims; Harvard Sussex Program (HSP); International Federation of University Women (IFUW); International Network of Engineers and Scientists for Global Responsibility (INES); International Union of Pure and Applied Chemistry (IUPAC); Pugwash International; Society for Chemical Weapons Victims Support (SCWVS); University of Leeds; Verification Research, Training and Information Centre (VERTIC); Weapons of Mass Destruction Injured Society (WMDIS); and World Federation of Scientific Workers (WFSW). Green Cross International (GCI) was registered to participate but did not show. In addition, two other individuals attended in their personal capacity) Richard Guthrie and Dr. Walter Krutzsch.

¶17. (U) The meeting began with a brief statement by the Director General (DG), in which he marked the importance of this event in preparation for the RevCon. Robin Black (Porton Down) made a presentation on the activities of the Scientific Advisory Board (SAB) since the First RevCon. This presentation addressed topics raised in the SAB report to the DG in preparation for the RevCon: captive use of Schedule 1 chemicals; salts of scheduled chemicals; structure of ricin; the status of CAS Registry numbers; sampling and analysis (including biomedical); and advances in science and technology. (Note: It was learned on the margins of the meeting that the term of Jiri Matousek (Czech Republic) as chair of the SAB has ended, and his successor will be named at their February meeting.)

¶18. (U) A series of NGOs made presentations on a variety of topics, the general themes of which are listed below:

- Center for Arms Control and Non-Proliferation: Incapacitating Chemicals and the Law Enforcement Provision. The presenter (Alan Pearson) also talked up a new book he co-wrote with Chevrier and Wheelis entitled &Incapacitating Biochemical Weapons: Promise or Peril?8, copies of which he made available to the group.
 - INES: INES and its engagement in implementing the CWC. This presentation was mostly an advertisement and history of their work.
 - WFSW: Working for General and Comprehensive Chemical Weapons Ban. Again, this presentation was mostly an advertisement and history of their work.
 - VERTIC: This presentation touched on three major topics: (1) national implementation, (2) compliance (mentioning non-lethal weapons), and (3) verification.
 - SCWVS: Chemical weapons in Iraq-Iran war. This presentation by an Iranian victim gave a historical perspective, the goals of SCWVS, and its activities to date.
 - HSP: This presentation presented the lessons learned from BWC RevCons to strengthen the upcoming CWC RevCon) early preparation and planning, reaffirm CWC comprehensive scope, focus on national implementation, broader concept of CWC implementation, widen and deepen synergies, and reach out to all stakeholders. Although not discussed, HSP distributed copies of their paper &Non Lethal Warfare and the Chemical Weapons Convention.8
 - ACA: This presentation touched on destruction of chemical weapons stockpiles, trade in dual-use chemicals, proliferation concerns, national implementation, &non-lethal8 chemical agents, and verification.
 - Richard Guthrie: NGO participation in meetings of global arms control treaties.
 - BWPP: Lessons from Geneva: learning from the BTWC.
 - IUPAC: Why should awareness be an important issue?
- This presentation discussed the progression of understanding about the CWC within the scientific community (including

mention of Responsible Care) and the need for further work.

- Alastair Hay (Leeds): Multiple Uses of Chemicals: making the right choice. This was a rehash of a presentation he made at the Academic Forum, focusing on OPCW-IUPAC chemical education and outreach efforts.

- Dr. Walter Krutzsch: Implementation of the CWC. This was also a slimmed-down rehash of a presentation he made at the Academic Forum. It includes several controversial presumptions) that the independence of the TS has been compromised; that the inviolability of records, samples and approved equipment are being &routinely violated during hundreds of inspections8; that the practice of reaching consensus leads to EC agreements &set at the lowest common denominator.8 Although not discussed, he also distributed a paper (together with Adolf von Wagner) entitled &CWC Implementation and new Developments.8

- Pugwash: This presentation was a general overview of the CWC and the role of the RevCon, emphasizing the value of including all stakeholders.

¶19. (U) Several other papers were made available to participants:

- &Beware the Siren,s Song: Why Non-Lethal, Incapacitating Agents are Lethal8 by Klotz, Furmanski, and Wheelis (March 2003)

- &Verifying the Chemical Weapons Ban: Missing Elements8 by Jonathan Tucker

- &,Off the Rocker, and &On the Floor,: The Continued Development of Biochemical Incapacitating Weapons8 by Neil Davison of University of Bradford (August 2007)

- The DG,s statement at the Conference on Investigation of Legal Aspects of Using Chemical Weapons (Tehran, June 2007)

¶20. (U) During the open discussion, India reacted to IUPAC,s statement that a shift of technology/industry to developing countries is seen as &a challenge.8 South Africa also cautioned against generalizations about developing countries, citing a legal case that involved citizens from three SPs (South Africa and two developed SPs), and that South Africa

was the only one to date to prosecute its citizen. The responses focused on giving attention to situations where technology is being introduced to an area where an appropriate regulatory structure does not yet exist. There was also a discussion about the overlaps between the CWC and the BWC and whether this created greater strengths or potential gaps. And, finally, a representative of WMDIS (an Iranian victim), who did not make any earlier presentation, made a brief intervention calling for outreach to survivors and their children to replace anger with understanding.

¶21. JAVITS SENDS.
Gallagher